

DECISION OF THE ADMINISTRATIVE COUNCIL
of 28 March 2014
amending Articles 2, 33 to 38a and 111 of the
Service Regulations for permanent employees of
the European Patent Office, and amending Article 5
of the Implementing rules for Articles 106 to 113 of
the Service Regulations for permanent employees
of the European Patent Office

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Articles 10(2)(c) and 33(2)(b) thereof,

Having regard to the Service Regulations for permanent employees of the European Patent Office (hereinafter referred to as "the Service Regulations"), and in particular Articles 2, 33 to 38a and 111 thereof,

Having regard to the Implementing rules for Articles 106 to 113 of the Service Regulations for permanent employees of the European Patent Office, and in particular Article 5 thereof,

On a proposal from the President of the European Patent Office, submitted after consulting the General Advisory Committee,

HAS DECIDED AS FOLLOWS:

I. Amendments to the Service Regulations

Article 1

Article 2(1)(b) of the Service Regulations shall read as follows:

"(b) a General Consultative Committee,"

Article 2

Article 2(2) of the Service Regulations shall read as follows:

"(2) Permanent employees and employees on contract referred to in Article 1 may act under the same conditions as members or chairmen of the bodies defined in paragraph 1."

Article 3

The following new paragraphs 4, 5 and 6 shall be added at the end of Article 2 of the Service Regulations:

"(4) Where applicable, the chairmen and deputy chairmen of the bodies referred to in paragraphs 1 (b) to (h) shall be appointed by the President of the Office.

(5) Unless otherwise provided in these Regulations, any rules of procedure of the bodies referred to in paragraph 1(b) to (h) shall be adopted by the President of the Office.

(6) The staff shall be represented on the bodies referred to in paragraph 1(b) to (f) and (h)."

Article 4

Article 33 of the Service Regulations shall read as follows:

"Article 33 Staff Committee

(1) The Staff Committee shall comprise a Central Staff Committee and Local Staff Committees.

(2) Staff shall be represented by a local staff committee where more than fifty staff members are in active employment in a place of employment. If fewer than fifty staff members are in active employment in a place of employment, the President of the Office may provide for their representation by another existing local staff committee."

Article 5

Article 34 of the Service Regulations shall read as follows:

"Article 34 Functions of the Staff Committee

- (1) The Staff Committee shall represent the interests of all staff and maintain suitable contacts with the Administration. It shall contribute to the smooth running of the service by providing a channel for the expression of opinion by the staff.
- (2) The duties undertaken by members of the Staff Committee and by their nominees to the bodies set up under these Service Regulations or by the Office shall be deemed to be part of their normal service. The fact of performing such duties shall in no way be prejudicial to the person concerned.
- (3) The President of the Office shall grant the members of the Staff Committee the resources and facilities required to exercise their functions."

Article 6

Article 35 of the Service Regulations shall read as follows:

"Article 35 Composition and election of the Staff Committee

- (1) All members of the Staff Committee shall be directly elected by staff.
- (2) The President of the Office shall ensure appropriate representation of all categories of employees and all places of employment in the Staff Committee.
- (3) The Central Staff Committee shall consist of ten full and ten alternate members.
- (4) The President of the Office shall determine the number of Local Staff Committee members, taking into account the number of staff members in active employment in each place of employment.
- (5) The following shall apply to the election of Staff Committee members:
 - (a) Elections by secret ballot shall be organised by the Office and take place at the same time for the Central and all Local Staff Committees.

(b) All employees referred to in Article 1 in active employment with at least three months' service, shall be entitled to vote and to be elected. Employees standing for election shall have a term of employment compatible with the Staff Committee's term of office.

(c) The President of the Office shall determine the detailed conditions relating to the Staff Committee elections.

(6) Subject to the above provisions, the members of staff of each category shall have complete freedom in the choice of their representatives.

(7) The term of office of a Staff Committee member shall be three years with a possibility of two consecutive re-elections. The staff member cannot however serve three consecutive terms on either the Central Staff Committee or a Local Staff Committee.

(8) A staff member cannot simultaneously be a member of the Central Staff Committee and a Local Staff Committee."

Article 7

Article 36 of the Service Regulations shall read as follows:

"Article 36 Competence of the Central Staff Committee

(1) All full members of the Central Staff Committee shall represent the staff on the General Consultative Committee. If any full member is unable to perform his duties, he shall be replaced by an alternate.

(2) The Central Staff Committee shall be responsible for:

(a) making appointments to the bodies under the Service Regulations or as requested by the President of the Office. Save for the members of Disciplinary Committees and Selection Boards, the respective appointments shall be made from among elected Staff Committee members at either local or central level.

(b) making, at the request of the President of the Office or on its own initiative, suggestions relating to the organisation and working of departments or the collective interests of the whole or part of the staff.

(c) examining any difficulties of a general nature relating to these Service Regulations or any Implementing Rules thereto and, where appropriate, addressing them in the General Consultative Committee."

Article 8

Article 37 of the Service Regulations shall read as follows:

"Article 37 Competence of the Local Staff Committees

(1) Each Local Staff Committee shall be:

(a) consulted on any proposal to make rules and, in general, except in cases of obvious urgency, any proposal which concerns the conditions of employment of the whole or part of the staff at the place of employment concerned;

(b) consulted on any question of a local nature submitted to it by the President of the Office or his representative;

(c) competent to raise site-specific issues only in so far as they are not subject to consultation of a Local Occupational Health, Safety and Ergonomics Committee;

(d) responsible for maintaining suitable contacts with the local Administration.

(2) Each site manager shall set up meetings with the Local Staff Committee at least twice a year."

Article 9

Article 38 of the Service Regulations shall read as follows:

"Article 38 General Consultative Committee

(1) The General Consultative Committee shall consist of:

- the President of the Office as Chairman. The President may delegate his chairmanship;
- all full members of the Central Staff Committee and in their absence their alternates;
- an equivalent number of full members appointed each year by the President of the Office and in their absence their alternates.

(2) The General Consultative Committee shall, in addition to the specific tasks given to it by the Service Regulations, be consulted on:

- any proposal to amend these Service Regulations or the Pension Scheme Regulations, any proposal to make implementing rules and, in general, except in cases of obvious urgency, any proposal which concerns the conditions of employment of the whole or part of the staff to whom these Service Regulations apply or the recipients of pensions;
- any question of a general nature submitted to it by the President of the Office;
- any question which the Staff Committee has asked to have examined in accordance with the provisions of Article 36 and which is submitted to it by the President of the Office.

(3) Following the consultation, the members of the General Consultative Committee shall express their opinion by voting at the meeting for or against each proposed measure or abstaining. The Chairman shall not vote save on procedural questions.

(4) Furthermore, the President of the Office may inform the General Consultative Committee on any other question of a general nature which is not subject to compulsory consultation under the Service Regulations.

(5) The General Consultative Committee's discussions shall be recorded and summarised in minutes.

(6) The President of the Office may set up sub-committees within the General Consultative Committee which shall, through their special knowledge of areas such as social security, training and salaries, prepare for the Committee's discussions. He shall appoint a chairman to each sub-committee.

(7) The General Consultative Committee shall meet at least four times per year, when convened by the Chairman. In addition, the Chairman may convene the General Consultative Committee for extraordinary meetings."

Article 10

Article 38a(2), second indent, of the Service Regulations shall read as follows:

"- members and alternates appointed at the same time by the President of the Office and by the Staff Committee pursuant to Article 36(2)(a)."

Article 11

Article 38a(5) of the Service Regulations shall read as follows:

"(5) The Committees shall be responsible for occupational health, safety and ergonomics policy. In the event that they draw up recommendations concerning the staff on their own initiative, these Committees shall not replace the General Consultative Committee."

Article 12

Article 111(3) of the Service Regulations shall read as follows:

"Notwithstanding Article 2(5), the President of the Office shall adopt the Appeals Committee's rules of procedure after consultation of the Chairman of the Administrative Council."

II. Amendments to the Implementing rules for Articles 106 to 113 of the Service Regulations for permanent employees of the European Patent Office

Article 13

Article 5 of the Implementing rules for Articles 106 to 113 of the Service Regulations for permanent employees of the European Patent Office shall read as follows:

"Article 5 Composition of the Appeals Committee

(1) For the purposes of Article 111(1)(a) of the Service Regulations, which concerns appeals against decisions of the President, and Article 111(1)(b) of the Service Regulations, which concerns appeals against decisions of the Administrative Council, the President of the Office shall appoint from among employees in active employment:

- (a) the chairman and
- (b) a deputy chairman of the Committee.

(2) For the purposes of Article 111(1)(a) of the Service Regulations, the President of the Office shall appoint from among employees in active employment:

- (a) two full members and
- (b) two alternate members of the Committee.

(3) For the purposes of Article 111(1)(a) and (b) of the Service Regulations, the Staff Committee shall appoint from among its members in active employment:

(a) two full members and

(b) two alternate members of the Committee.

(4) For the purposes of Article 111(1)(b) of the Service Regulations, the Administrative Council shall appoint:

(a) two full members and

(b) two alternate members of the Committee.

(5) The term of office of the chairman, deputy chairman, members and alternate members shall be one calendar year. They may be reappointed.

(6) For the purposes of Article 111(1)(a) and (b) of the Service Regulations, the deputy chairman and alternate members shall take part in the proceedings of the Committee if the chairman or full members are not able to act.

(7) The Appeals Committee shall act in the same composition throughout the procedure, except in justified cases."

III. Entry into force and transitional provisions

Article 14

This decision shall enter into force on 1 April 2014.

Article 15

(1) The elections of the Central and Local Staff Committees pursuant to the Service Regulations as amended by this decision shall take place in June 2014.

(2) The results of these elections shall take effect on 1 July 2014.

(3) Until 30 June 2014, the existing provisions applicable to the Central and Local Staff Committees shall remain in force.

Article 16

- (1) The General Consultative Committee shall be constituted with effect from 1 July 2014.
- (2) Until 30 June 2014, the General Advisory Committee in its current composition shall continue to function in accordance with Article 38 of the Service Regulations as applicable prior to the entry into force of this decision.
- (3) References to the General Advisory Committee in the applicable provisions of the internal legal framework shall be replaced by a reference to the General Consultative Committee with effect from 1 July 2014.
- (4) The Implementing Rule for Article 38 of the Service Regulations shall be repealed with effect from 1 July 2014.
- (5) The Local Advisory Committees shall be abolished with effect from 1 July 2014.

Article 17

- (1) The appointment of new members to the bodies referred to in Article 2(1)(c), (e) and (h) of the Service Regulations and all other bodies shall be made by 1 October 2014 in accordance with the Service Regulations as amended by this decision, in particular Article 36(2)(a) thereof.
- (2) These bodies shall continue to function in their current composition pursuant to the provisions applicable prior to the entry into force of this decision until they are newly composed in accordance with paragraph 1 above.

Article 18

The President of the Office shall take any further appropriate measures to ensure a smooth transition between the provisions in force on the date of this decision and the provisions adopted by this decision.

Done at Munich, 28 March 2014

For the Administrative Council
The Chairman



Jesper KONGSTAD